



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: May 28, 2019
MOAHR Docket No.: 19-003646
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 22, 2019, from Detroit, Michigan. Petitioner appeared and was represented by her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Joann Sepic, Assistance Payments Supervisor, and Luiza Wright, Assistance Payments Worker. During the hearing, a 30-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-30.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective April 1, 2019?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a full-time student, was born on [REDACTED], 1999, and lives with her mother.
2. Petitioner was an ongoing recipient of MA benefits from the Department. On February 5, 2019, the Department issued to Petitioner a Redetermination form in order to obtain relevant information regarding Petitioner's ongoing eligibility for MA benefits. The form was pre-populated with some information, and Petitioner filled in the rest. She returned it to the Department on or about [REDACTED] 2019. Along

with the completed Redetermination form, Petitioner turned in four paycheck stubs showing a month of recent earnings from each of her two jobs. Exhibit A, pp. 4-11.

3. Petitioner's two paychecks from her job at [REDACTED] showed that she earned \$148.91 in one month, and her two paychecks from her job at [REDACTED] showed that she made \$1,226.50 in one month. Thus, based on the four paycheck stubs submitted with the completed Redetermination on March 5, 2019, Petitioner's total monthly income was \$1,375.41. When that monthly income is annualized by multiplying it by twelve, Petitioner's income comes to \$16,504.92. That number is reached without any consideration of the prepopulated income information on the Redetermination. Rather, it is entirely based upon the paycheck stubs submitted by Petitioner on March 5, 2019. Exhibit A, pp. 12-15.
4. Petitioner's mother and fellow household member receives \$87.91 per month in child support and \$540 per month in RSDI, totaling \$627.91 in countable income per month. Petitioner's mother also receives \$251 per month in SSI income, but that income is not countable.
5. On March 15, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective April 1, 2019. The notice informed Petitioner that the Department calculated her annual income to be \$16,500. Exhibit A, pp. 16-19.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her MA benefits case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner was an ongoing recipient of MA benefits from the Department until it closed her case, effective April 1, 2019. At the hearing, the Department conceded that the closure was inappropriate as the Department failed to analyze Petitioner's eligibility under the MA-Group 2 Persons Under Age 21 (G2U) category.

Prior to closing an individual's MA benefits case, the Department must do an *ex parte* review of eligibility under all other MA categories. BAM 220 (April 2019), p. 18. When the review shows that a recipient may have continuing eligibility under another category, the Department must change the coverage and send notice. BAM 220, p. 18. Only when the *ex parte* review shows that there is no potential eligibility under another MA category does the Department send timely notice of an MA case closure. BAM 220, p. 19.

The G2U category provides MA benefits to persons under age 21 who meets all the eligibility factors for coverage. BEM 132 (April 2018), p. 1. The person must be under age 21 and be income eligible under the Group 2 needs criteria in BEM 544. BEM 132, p. 2. Income eligibility is dependent upon the individual's fiscal group size, as determined under BEM 211. BEM 132, p. 2.

The Department conceded at the hearing that it did not do an adequate *ex parte* review of Petitioner's eligibility under other MA categories prior to closing Petitioner's MA benefits case. Had it done so, the Department would have concluded that, at the very least, Petitioner was eligible for the G2U coverage. Because the Department failed to properly conduct an *ex parte* review of Petitioner's eligibility under another MA category before sending her timely notice of the case closure, the contested decision must be reversed.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA benefits case, effective April 1, 2019.

DECISION AND ORDER

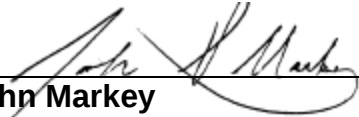
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's MA benefits case, effective April 1, 2019;
2. If Petitioner is eligible for benefits that she did not receive as a result of the improper closure of her MA benefits case, ensure that supplements or payments are appropriately made;
3. Redetermine Petitioner's eligibility for MA benefits going forward;
4. Provide Petitioner with coverage under the most favorable category she is eligible for; and

5. Provide Petitioner with written notice of its decisions.

JM/cg


John Markey
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Berrien-Hearings
D. Smith
EQAD
BSC3- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]

**Petitioner –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]